

Executive Summary – Enforcement Matter – Case No. 49506

City of Sabinal

RN102143328

Docket No. 2014-1545-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - MSW, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Sabinal Landfill, located 1.5 miles southeast of a landing strip located on U.S. Highway 127, Sabinal, Uvalde County

Type of Operation:

Type IV Arid Exempt Landfill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: March 13, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,750

Amount Deferred for Expedited Settlement: \$1,950

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,800

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49506
City of Sabinal
RN102143328
Docket No. 2014-1545-MLM-E

Investigation Information

Complaint Date(s): January 27, 2014 and August 21, 2014

Complaint Information: Alleged a large multitude of garbage is scattered over the landfill and that the City employs unlicensed operators.

Date(s) of Investigation: June 24, 2014

Date(s) of NOE(s): September 30, 2014

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 95 cubic yards of metal wire bundles, construction and demolition debris, broken concrete pieces, bricks, rocks and asphalt rubble were disposed of in a buffer zone at the Facility, adjacent to the Sabinal River [30 TEX. ADMIN. CODE § 330.15(a), TEX. WATER CODE § 26.121(a)(1), MSW Permit No. 630 and Site Operating Plan, Part IV, Section 14].

2. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, more than 500 scrap tires (approximately 30 cubic yards) were disposed of at the Facility [30 TEX. ADMIN. CODE § 330.15(c), MSW Permit No. 630 and Site Operating Plan, Part IV, Section 7].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent removed all scrap tires from the Facility by October 7, 2014.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease disposing and/or allowing the disposal of any additional MSW at unauthorized locations at the Facility;
- b. Within 30 days, remove all MSW from the buffer zone at the Facility and relocate it to authorized locations or dispose of it at an authorized facility; and
- c. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions a. and b.

Executive Summary – Enforcement Matter – Case No. 49506
City of Sabinal
RN102143328
Docket No. 2014-1545-MLM-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Allyson Plantz, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-4593; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Louis Landeros, Jr., Mayor, City of Sabinal, P.O. Box
838, Sabinal, Texas 78881
Respondent's Attorney: N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	6-Oct-2014	Screening	13-Oct-2014	EPA Due	
	PCW	19-Nov-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Sabinal	
Reg. Ent. Ref. No.	RN102143328	
Facility/Site Region	13-San Antonio	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	49506	No. of Violations	1
Docket No.	2014-1545-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media	Water Quality & Waste Tires	Enf. Coordinator	Allyson Plantz
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$125
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$75
Estimated Cost of Compliance	\$1,461

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,625
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DEFERRAL	20.0% Reduction	Adjustment	-\$525
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$2,100
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Screening Date 13-Oct-2014

Docket No. 2014-1545-MLM-E

PCW

Respondent City of Sabinal

Policy Revision 4 (April 2014)

Case ID No. 49506

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102143328

Media [Statute] Municipal Solid Waste

Enf. Coordinator Allyson Plantz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 13-Oct-2014

Docket No. 2014-1545-MLM-E

PCW

Respondent City of Sabinal

Case ID No. 49506

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102143328

Media [Statute] Municipal Solid Waste

Enf. Coordinator Allyson Plantz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a), Tex. Water Code § 26.121(a)(1), MSW Permit No. 630 and Site Operating Plan, Part IV, Section 14

Violation Description

The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 95 cubic yards of metal wire bundles, construction and demolition debris, broken concrete pieces, bricks, rocks and asphalt rubble were disposed of in a buffer zone at the Facility, adjacent to the Sabinal River.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

111 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the June 24, 2014 investigation date to the October 13, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$75

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent City of Sabinal
 Case ID No. 49506
 Reg. Ent. Reference No. RN102143328
 Media Municipal Solid Waste
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal	\$1,461	24-Jun-2014	6-Jul-2015	1.03	\$75	\$0	\$75
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost to remove the MSW and dispose of it at an authorized facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,461

TOTAL

\$75

TCEQ	Assigned		6-Oct-2014		Screening	13-Oct-2014		EPA Due		
	PCW		19-Nov-2014							

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Sabinal		
Reg. Ent. Ref. No.	RN102143328		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	49506	No. of Violations	1
Docket No.	2014-1545-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	Yes
Multi-Media	Municipal Solid Waste & Water Quality	Enf. Coordinator	Allyson Plantz
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section				
TOTAL BASE PENALTY (Sum of violation base penalties)			Subtotal 1	\$7,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1				
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.				
Compliance History	5.0%	Enhancement	Subtotals 2, 3, & 7	\$375
Notes	Enhancement for one NOV with same/similar violations.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	-\$750
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$204	*Capped at the Total EB \$ Amount		
Estimated Cost of Compliance	\$14,181			
SUM OF SUBTOTALS 1-7			Final Subtotal	\$7,125
OTHER FACTORS AS JUSTICE MAY REQUIRE			0.0%	Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.				
Notes				
			Final Penalty Amount	\$7,125
STATUTORY LIMIT ADJUSTMENT			Final Assessed Penalty	\$7,125
DEFERRAL	20.0%	Reduction	Adjustment	-\$1,425
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)				
Notes	Deferral offered for expedited settlement.			
PAYABLE PENALTY			\$5,700	

Screening Date 13-Oct-2014
Respondent City of Sabinal
Case ID No. 49506
Reg. Ent. Reference No. RN102143328
Media [Statute] Waste Tires
Enf. Coordinator Allyson Plantz

Docket No. 2014-1545-MLM-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

**Compliance
History
Notes**

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 13-Oct-2014
Respondent City of Sabinal
Case ID No. 49506
Reg. Ent. Reference No. RN102143328
Media [Statute] Waste Tires
Enf. Coordinator Allyson Plantz
Violation Number 1

Docket No. 2014-1545-MLM-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c), MSW Permit No. 630 and Site Operating Plan, Part IV, Section 7

Violation Description

The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, more than 500 scrap tires (approximately 30 cubic yards) were disposed of at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

105 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended from the June 24, 2014 investigation date to the October 7, 2014 compliance date.

Good Faith Efforts to Comply

10.0%

Reduction \$750

Before NOE/NOV NOE/NOV to EDP RP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieved compliance on October 7, 2014, after the Notice of Enforcement dated September 30, 2014.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$204

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

Economic Benefit Worksheet

Respondent City of Sabinal
Case ID No. 49506
Reg. Ent. Reference No. RN102143328
Media Waste Tires
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal	\$14,181	24-Jun-2014	7-Oct-2014	0.29	\$204	\$204	\$204
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Actual cost to remove the tires and dispose of them at an authorized facility. The Date Required is the investigation date and the Final Date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$14,181

TOTAL

\$204

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600339402, RN102143328, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600339402, City of Sabinal

Classification: SATISFACTORY

Rating: 6.20

Regulated Entity: RN102143328, City of Sabinal Landfill

Classification: SATISFACTORY

Rating: 1.14

Complexity Points: 6

Repeat Violator: NO

CH Group: 14 - Other

Location: 1.5 MILES SE OF LANDING STRIP LOCATED ON US HIGHWAY 127, SABINAL, TX, UVALDE COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

MUNICIPAL SOLID WASTE DISPOSAL PERMIT 630

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: October 13, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 13, 2009 to October 13, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Allyson Plantz

Phone: (512) 239-4593

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 01/30/2014 (1139614)	CN600339402
	Self Report? NO	Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 330, SubChapter A 330.7(a)

Description: The TWC, Section 26.121 states that, except as authorized by the commission, no person may discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state. The TAC, Title 30 TAC 330.7 also states that no person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any solid waste unless such activity is authorized by a permit or other authorization from the commission.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to prevent an unauthorized discharge of municipal solid waste (MSW), in violation of 30 TAC 330.15, a person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SABINAL
RN102143328**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1545-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Sabinal ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a Type IV Arid Exempt landfill 1.5 miles southeast of a landing strip located on United States Highway 127 in Sabinal, Uvalde County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Respondent has discharged MSW into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 5, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Seven Hundred Fifty Dollars (\$9,750) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Seven Thousand Eight Hundred Dollars (\$7,800) of the administrative penalty and One Thousand Nine Hundred Fifty Dollars (\$1,950) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent removed all scrap tires from the Facility by October 7, 2014.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a), TEX. WATER CODE § 26.121(a)(1), MSW Permit No. 630 and Site Operating Plan, Part IV, Section 14, as documented during an investigation conducted on June 24, 2014. Specifically, approximately 95 cubic yards of metal wire bundles, construction and demolition debris, broken concrete pieces, bricks, rocks and asphalt rubble were disposed of in a buffer zone at the Facility, adjacent to the Sabinal River.
2. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), MSW Permit No. 630 and Site Operating Plan, Part IV, Section 7, as documented during an investigation conducted on June 24, 2014. Specifically, more than 500 scrap tires (approximately 30 cubic yards) were disposed of at the Facility.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Sabinal, Docket No. 2014-1545-MLM-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease disposing and/or allowing the disposal of any additional MSW at unauthorized locations at the Facility;
 - b. Within 30 days after the effective date of this Agreed Order, remove all MSW from the buffer zone at the Facility and relocate it to authorized locations or dispose of it at an authorized facility; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

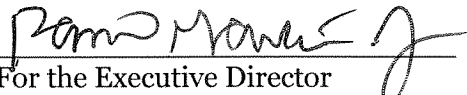
may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/4/15

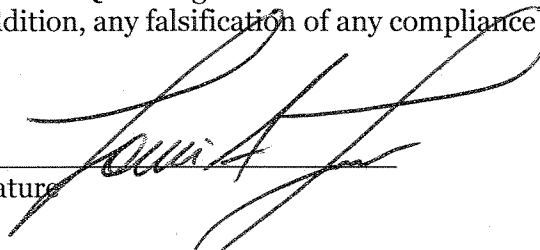
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

1-30-15

Date

LOUIS A. LANDEROS, JR.

Name (Printed or typed)
Authorized Representative of
City of Sabinal

MAYOR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.